

## FINAL STATEMENT OF REASONS

### **Protection for Threatened and Impaired Watersheds, 2000**

#### UPDATED INFORMATIVE DIGEST

The Z'berg-Nejedly Forest Practice Act of 1973 (ref. Division 4, Chapter 8 of the Public Resources Code) establishes the Legislature's concern throughout the State relating to the use, restoration, and protection of the forest resources. The Legislature further recognized that these forest resources provide watershed protection and fisheries maintenance. The Legislature declared that it is the policy of the State to encourage responsible forest management that considers the public's need for watershed protection and fisheries (ref. PRC § 4512). Furthermore, the Legislature stated its intent to create and maintain an effective and complete system of regulation for all timberlands. This system is to assure the productivity of timberlands and the goal of maximum sustained production of high quality timber products. It is also intended to give consideration to values related to watershed, wildlife, and fisheries (ref. PRC § 4513). Public Resources Code § 4551 gives the Board the authority to adopt such rules and regulations which will enable it to carry out its responsibilities to protect fish and water resources, including but not limited to streams, lakes, and estuaries.

In 1996, the State Fish and Game Commission listed Coho salmon south of San Francisco Bay as threatened under the State Endangered Species Act (ESA). Then in 1997, the National Marine Fisheries Service (NMFS) listed Coho salmon as threatened throughout its range in California under the Federal ESA, and Steelhead trout is currently proposed for listing as a threatened species.

Among many other sources of information considered by the Board in preparing the proposal for rule changes, a comprehensive review of the California Forest Practice Rules (FPRs), with regard to their adequacy for the protection of salmonid species, was been prepared for the Board (*Report of the Scientific Review Panel* [SRP report], 1999). Following an extensive review of the regulations, "The SRP concluded the FPRs, including their implementation (the 'THP process') do not ensure protection of anadromous salmonid populations" (*Report of the Scientific Review Panel*, 1999). Although this report was specific to the North Coast region, the Board believes that many of the recommendations made in the report can be effectively applied throughout the state to ensure the protection of the beneficial uses of water, including fisheries and other aquatic habitat.

The Board of Forestry and Fire Protection recognized the substantial concerns raised by other agencies additionally charged with the protection of the State's valuable watershed resources. The Board is also extremely aware of the need to protect listed species that may be impacted by practices that are regulated under the Board's purview, regardless of their location within the State. Furthermore, the Board recognized the potential for economic impacts to timberland owners and others that could be imposed from certain types of restrictions or requirements. Considering these factors, the Board adopted the following changes to the Forest Practice Rules

under this rulemaking package. However, in its motion to adopt the rule language proposed in this rulemaking record, the Board directed staff to indicate in the official record that the existing Forest Practice Rules have been recognized as successful in mitigating actions that have been commonly associated with impacts to the beneficial uses of water on a plan-specific basis. Data collected and analyzed by the Board's Monitoring Study Group indicate that in most cases the rules have been sufficient to prevent hillslope erosion features where rule compliance has not been compromised. However, the MSG report did not allow the group to draw conclusions about whether the existing rules are adequate to provide properly functioning habitat to aquatic species.

It should be noted that pursuant to PRC §§ 4512, 4513, 4551, 4551.5, 4552, and 4553; the Board is moving forward with action to further analyze the effectiveness of the rules to protect listed species and the beneficial uses of water. In order to clarify the Board's intent to address the protection of listed aquatic species and watercourses listed as impaired (pursuant to section 303(d) of the Clean Water Act) on a watershed basis, the Board chose to establish a specific period of time that the adopted rules would be effective. By imposing this limit on the effective period of the rule changes, the Board would be allowed to work with landowners, scientists and other parties during the balance of the current year to investigate whether an alternative regulatory approach can be developed. The Board intends to research whether an alternative approach can be developed that would use enhanced scientific analysis and the principals of watershed analysis to determine, among other things, the potential cumulative environmental impacts of proposed timber harvesting operations and associated activities. The Board hopes that an accumulation of knowledge applicable to specific watersheds and basins will be brought together by the various agencies and the public. This knowledge could then be used to tailor site-specific forest practices to avoid any significant environmental impacts from individual timber harvesting plans, or cumulative impacts from various activities in a watershed that could combine with the effects of timber harvesting.

The Board of Forestry and Fire Protection adopted amendments to the following rule sections:

§ 895	Abbreviations Applicable Throughout Chapter
§ 895.1	Definitions
§ 898	Feasibility Alternatives
§ 898.2	Special Conditions Requiring Disapproval of Plans
§§ 914.8 [934.8, 954.8]	Tractor Road Watercourse Crossing
§§ 916 [936, 956]	Intent of Watercourse and Lake Protection
§§ 916.2 [936.2, 956.2]	Protection of the beneficial Uses of Water <u>and</u> <u>Riparian Functions</u>
§ 923.3 [943.3, 963.3]	Watercourse Crossings

The Board of Forestry and Fire Protection adopted the following new rule sections:

§§ <u>916.9</u> [936.9, 956.9]	<u>Protection and Restoration in Watersheds with Threatened or Impaired Values</u>
§§ <u>916.11</u> [936.11, 956.11]	<u>Effectiveness and Implementation Monitoring</u>
§§ <u>916.12</u> [936.12, 956.12]	<u>Section 303(d) Listed Watersheds</u>
§§ <u>923.9</u> [943.9, 963.9]	<u>Roads and Landings in Watersheds with Threatened or Impaired Values</u>

On March 15, 2000, after reviewing extensive comment and correspondence from concerned citizens and other agencies, and considering testimony presented at a public hearing, the Board adopted changes to the Forest Practice Rules as proposed in its 45-day Notice of Proposed Rulemaking published January 28, 2000. Based upon public testimony, the Board chose to present other minor changes to the regulations, which were presented in a 15-day Notice that was circulated March 17, 2000. Subsequent to that notice and considering comments and testimony from the public and other agencies, the Board adopted the remaining changes at a hearing held April 4, 2000. The changes adopted by the Board pertain primarily to the protection of fisheries habitat, with specific regulations for those watersheds where populations of listed anadromous salmonids are present or can be restored. The Board anticipates that these regulations will also enhance the protection provided to other beneficial uses of water throughout the State.

1. 14 CCR § 895 Abbreviations Applicable Throughout Chapter

The Board did not revise the language that was originally noticed in the 45-Day Notice of January 28, 2000.

**2. 14 CCR § 895.1 Definitions**

With the exception of a minor grammatical change necessary to provide clarity, the Board did not revise the language that was originally noticed in the 45-Day Notice of January 28, 2000. This change was presented in the 15-Day Notice of March 17, 2000 for those definitions adopted.

### 3. 14 CCR § 898 Feasibility Alternatives

The Board did not revise the language that was originally noticed in the 45-Day Notice of January 28, 2000, or that was presented in the 15-Day Notice of March 17, 2000. The Board determined that the language proposed under Alternative 1 was clear and met the intent of the proposed changes. It was therefore determined to be the preferred alternative by the Board and was adopted.

4. **14 CCR § 898.2**

**Special Conditions Requiring  
Disapproval of Plans**

The Board did not revise the language that was originally noticed in the 45-Day Notice of January 28, 2000, or that was presented in the 15-Day Notice of March 17, 2000. In regard to the language adopted by the Board, the 15-Day Notice addressed changes in the language from that originally presented in the 45-Day Notice of January 28, 2000 in an *Updated Informative Digest/Plain English Summary*.

5. **14 CCR §§ 914.8 [934.8, 954.8]**

**Tractor Road Watercourse Crossing**

The Board did not revise the language that was originally noticed in the 45-Day Notice of January 28, 2000, or that was presented in the 15-Day Notice of March 17, 2000. In regard to the language adopted by the Board, the 15-Day Notice addressed changes in the language from that originally presented in the 45-Day Notice of January 28, 2000 in an *Updated Informative Digest/Plain English Summary*.

6. **14 CCR §§ 916 [936, 956]**

**Intent of Watercourse and Lake  
Protection**

The Board did not revise the language that was originally noticed in the 45-Day Notice of January 28, 2000, or that was presented in the 15-Day Notice of March 17, 2000. The Board determined that the language proposed under Alternative 1 was clear and met the intent of the proposed changes. It was therefore determined to be the preferred alternative by the Board and was adopted.

7. **14 CCR §§ 916.2 [936.2, 956.2]**

**Protection of the Beneficial Uses of Water  
and Riparian Function**

The Board did not revise the language that was originally noticed in the 45-Day Notice of January 28, 2000, or that was presented in the 15-Day Notice of March 17, 2000. In regard to the language adopted by the Board, the 15-Day Notice addressed changes in the language from that originally presented in the 45-Day Notice of January 28, 2000 in an *Updated Informative Digest/Plain English Summary*.

8. **14 CCR §§ 923.3 [943.3, 963.3]**

**Watercourse Crossings**

The Board did not revise the language that was originally noticed in the 45-Day Notice of January 28, 2000, or that was presented in the 15-Day Notice of March 17, 2000. However, the Alternative Language from the Technical Team included specific prescriptive standards for the installation of culverts on Class I watercourses. The Board chose to adopt language from this alternative that is intended to address the same issues utilizing performance standards rather than prescriptive standards. The Board determined that the language adopted was clear and met the intent of the proposed changes. Therefore, this alternative was adopted as subsection (g).

9. 14 CCR §§ 916.9 [936.9, 956.9]

Protection and Restoration in Watersheds  
with Threatened or Impaired Values

The Board did not revise the language under 14 CCR §§ 916.9 [936.9, 956.9], subsections (a), (b), (c), and (g) that was noticed in the 15-Day Notice of March 17, 2000. The notice addressed changes in the language from that originally presented in the 45-Day Notice of January 28, 2000 in an *Updated Informative Digest/Plain English Summary*.

The Board did not revise the language under 14 CCR §§ 916.9 [936.9, 956.9], subsections (d), (e), (f), and (h) that was originally noticed in the 45-Day Notice of January 28, 2000.

The Board did not revise the language under 14 CCR §§ 916.9 [936.9, 956.9], subsections (i) that was originally noticed in the 45-Day Notice of January 28, 2000. However, the Board chose to bifurcate this subsection and adopt a portion of the originally noticed language. This portion of the proposed language was presented in the 15-day Notice as subsection (j). However, the Board staff determined that the adopted regulations would be clearer to the effected public if they were relocated as subsection (v) as they pertain to the entire section of the rules (14 CCR § 916.9 [936.9, 956.9]). As there was no further substantive change to the rule language or the intent of the rules, the Board staff believes this change was not substantive and did not warrant further notice. The Board staff also noted an additional problem with consistency under the new subsection (v). The Board has consistently utilized the word "plan" rather than "THP" in new rule language and has changed existing language for consistency when other changes were being proposed. However, the Board overlooked this change when developing the 15-day Notice language. Therefore, the Board staff incorporated this change in the Final Rule Language for consistency. The Board staff believes this change was also non-substantive and did not warrant further notice.

The Board chose not to adopt subsections (j) and (k) as presented in the originally noticed language. Changes to the letter identification (numbering) of actual adopted changes to the rules were addressed in an *Updated Informative Digest/Plain English Summary* presented in the 15-Day Notice of March 17, 2000. The letter identification (numbering) of subsections (j) through (v) were further revised for clarity based upon changes noted above. Except where noted above, the Board did not revise the language presented in that notice.

The Board did not revise the language under 14 CCR §§ 916.9 [936.9, 956.9], subsection (l) that was originally noticed in the 45-Day Notice of January 28, 2000. However, for clarity, this subsection was adopted as subsection (j) although presented in the 15-Day Notice of March 17, 2000, as subsection (k) (see discussion above). It should be noted that the Board chose to adopt Alternative 2, presented in the 45-Day Notice under subsection (l).

The Board chose not to adopt subsection (m) as presented in the originally noticed language.

The Board did not revise the language under 14 CCR §§ 916.9 [936.9, 956.9], subsection (n) that was originally noticed in the 45-Day Notice of January 28, 2000. However, for clarity, this subsection was adopted as subsection (k) although presented in the 15-Day Notice of March 17, 2000, as subsection (l) (see discussion above).

The Board did not revise the language under 14 CCR §§ 916.9 [936.9, 956.9], subsection (o) that was originally noticed in the 45-Day Notice of January 28, 2000. However, for clarity, this subsection was adopted as subsection (l) although presented in the 15-Day Notice of March 17, 2000, as subsection (m) (see discussion above). It should be noted that the word "dryer" was changed to "drier" for grammatical clarity.

The Board did not revise the language under 14 CCR §§ 916.9 [936.9, 956.9], subsection (p) that was originally noticed in the 45-Day Notice of January 28, 2000. However, for clarity, this subsection was adopted as subsection (m) although presented in the 15-Day Notice of March 17, 2000, as subsection (n).

The Board did not revise the language under 14 CCR §§ 916.9 [936.9, 956.9], subsection (q) that was originally noticed in the 45-Day Notice of January 28, 2000. However, for clarity, this subsection was adopted as subsection (n) although presented in the 15-Day Notice of March 17, 2000, as subsection (o) (see discussion above).

The Board did not revise the language under 14 CCR §§ 916.9 [936.9, 956.9], subsection (r) that was originally noticed in the 45-Day Notice of January 28, 2000. However, for clarity, this subsection was adopted as subsection (o) although presented in the 15-Day Notice of March 17, 2000, as subsection (p) (see discussion above).

The Board did not revise the language under 14 CCR §§ 916.9 [936.9, 956.9], subsection (s) that was originally noticed in the 45-Day Notice of January 28, 2000. However, for clarity, this subsection was adopted as subsection (p) although presented in the 15-Day Notice of March 17, 2000, as subsection (q) (see discussion above).

The Board did not revise the language under 14 CCR §§ 916.9 [936.9, 956.9], subsection (t) that was originally noticed in the 45-Day Notice of January 28, 2000. However, for clarity, this subsection was adopted as subsection (q) although presented in the 15-Day Notice of March 17, 2000, as subsection (r).

The Board did not revise the language under 14 CCR §§ 916.9 [936.9, 956.9], subsection (u) that was originally noticed in the 45-Day Notice of January 28, 2000. However, for clarity, this subsection was adopted as subsection (r) although presented in the 15-Day Notice of March 17, 2000, as subsection (s) (see discussion above).

The Board did not revise the language under 14 CCR §§ 916.9 [936.9, 956.9], subsection (v) that was originally noticed in the 45-Day Notice of January 28, 2000. However, for clarity, this subsection was adopted as subsection (s) although presented in the 15-Day Notice of March 17, 2000, as subsection (t) (see discussion above).

The Board did not revise the language under 14 CCR §§ 916.9 [936.9, 956.9], subsection (w) that was originally noticed in the 45-Day Notice of January 28, 2000. However, for clarity, this subsection was adopted as subsection (t) although presented in the 15-Day Notice of March 17, 2000, as subsection (u).

The Board did not revise the language under 14 CCR §§ 916.9 [936.9, 956.9], subsection (x) that was originally noticed in the 45-Day Notice of January 28, 2000. However, for clarity, this subsection was adopted as subsection (u) although presented in the 15-Day Notice of March 17, 2000, as subsection (v).

The Board did not revise the language under 14 CCR §§ 916.9 [936.9, 956.9], subsection (y) that was originally noticed in the 45-Day Notice of January 28, 2000. However, for clarity, this subsection was adopted as subsection (w) as presented in the 15-Day Notice of March 17, 2000.

The Board did not revise the language under 14 CCR §§ 916.9 [936.9, 956.9], subsections (x) and (y) that was noticed in the 15-Day Notice of March 17, 2000. The notice addressed changes in the language from that originally presented in the 45-Day Notice of January 28, 2000 in an *Updated Informative Digest/Plain English Summary*.

10.     14 CCR §§ 916.11 [936.11, 956.11]                     Effectiveness and Implementation Monitoring

The Board did not revise the language that was noticed in the 15-Day Notice of March 17, 2000. In regard to the language adopted by the Board, the notice addressed changes in the language from that originally presented in the 45-Day Notice of January 28, 2000 in an *Updated Informative Digest/Plain English Summary*.

11.     14 CCR §§ 916.12 [936.12, 956.12]                     Section 303(d) Listed Watersheds

The Board did not revise the language that was originally noticed in the 45-Day Notice of January 28, 2000, or that was presented in the 15-Day Notice of March 17, 2000. In regard to the language adopted by the Board, the 15-Day Notice addressed changes in the language from that originally presented in the 45-Day Notice of January 28, 2000 in an *Updated Informative Digest/Plain English Summary*.

It should be noted that the originally noticed language and the language presented in the 15-day Notice under 14 CCR §§ 916.12 [936.12, 956.12], subsection (c) included a sentence that was not grammatically correct. Subsection (c) stated in part: "Where the Department has recommended the adoption of watershed specific rules are needed . . . ."

The Board staff determined that, to be grammatically correct and still maintain the intent of the Board, this portion of the rules should state: " Where the Department has recommended that the adoption of watershed specific rules is needed . . . ." This change was made in the Final Rule Language. As there was no further substantive change to the rule language or the intent of the rules, the Board staff believes this change was not substantive and did not warrant further notice.

12. 14 CCR §§ 923.9 [943.9, 963.9]

Roads and Landings in Watersheds with  
Threatened or Impaired Values

The Board did not revise the language that was noticed in the 15-Day Notice of March 17, 2000. In regard to the language adopted by the Board, the notice addressed changes in the language from that originally presented in the 45-Day Notice of January 28, 2000 in an *Updated Informative Digest/Plain English Summary*.

**ADDITIONAL RELEVANT DOCUMENTS**

The Board received additional reference material from the public submitted as public testimony during the public comment period. These documents were made part of the rulemaking record during the public comment period and were available to the public and the Board for review prior to the Board's adoption of the changes under this rulemaking action. No other additional documents were provided for the Board's consideration during the rulemaking process to supplement previous information submitted to the Board and referenced in the *Initial Statement of Reasons*.

**DISCLOSURES REGARDING THE PROPOSED ACTION**

The Board has determined the proposed action will have the following effects:

- Mandate on local agencies and school districts: None are known.
- Costs or savings to any State agency: None are known.
- Cost to any local agency or school district which must be reimbursed in accordance with the applicable Government Code (GC) sections commencing with GC § 17500: None are known.
- Other non-discretionary cost or savings imposed upon local agencies: None are known.
- Cost or savings in federal funding to the State: None are known.
- Significant adverse economic impact on business, including the ability of California businesses to compete with businesses in other states: The rule proposal will affect businesses and small business related to the timber industry by increasing the cost for timber harvesting. These extra costs are associated with planning and the protection of watercourses, and may include but are not limited to additional planning and additional cost



of professional consultations. There may also be additional cost associated with additional inspections. However, due to the limited period of application specified in the rules, the Board staff does not anticipate that the increased costs will result in significant adverse impacts on businesses, nor on the ability of businesses to compete with businesses in other states.

(Note: cost estimates for the individual rules are presented in the *Initial Statement of Reasons*. However, in adopting the rules, the Board requested that the Board staff work with the Department staff to present a current summary of economic impacts based upon those rules adopted, which would supplement the information previously included in the rulemaking record. This summary is intended to facilitate the response to the public's concerns regarding the potential for significant adverse economic impacts. This summary information is attached to this *Final Statement of Reasons*, and is referenced in the responses to written comments.)

- Potential cost impact on private persons or directly affected businesses: As indicated above, the rule proposal will affect businesses and large and small landowners with an interest in the timber products industry by increasing the cost for timber harvesting. These extra costs are associated with planning and the protection of watercourses, and may include but are not limited to additional planning and additional cost of professional consultations. There may also be additional cost associated with additional inspections. However, due to the limited period of application specified in the rules, the Board staff does not anticipate that the increased costs will result in significant adverse impacts on private persons or on businesses.

(Note: cost estimates for the individual rules are presented in the *Initial Statement of Reasons*. However, in adopting the rules, the Board requested that the Board staff work with the Department staff to present a current summary of economic impacts based upon those rules adopted, which would supplement the information previously included in the rulemaking record. This summary is intended to facilitate the response to the public's concerns regarding the potential for significant adverse economic impacts. This summary information is attached to this *Final Statement of Reasons*, and is referenced in the responses to written comments.)

- Significant effect on housing costs: None are known.
- Adoption of these regulations will not: (1) create or eliminate jobs within California; (2) create new businesses or eliminate existing businesses within California; or (3) affect the expansion of businesses currently doing business within California.
- The proposed rules do not conflict with, or duplicate Federal regulations.

## **BUSINESS REPORTING REQUIREMENT**

Pursuant to GC § 11346.3 (c), the Board acknowledges the following: No administrative regulation adopted after January 1, 1993, that requires a report shall apply to businesses, unless the state agency making the regulation makes a finding that the regulation is necessary for the health, safety, or welfare of the people of the State that the regulation apply to business.

The Board finds that it is necessary for the health, safety, or welfare of the people of this state that the adopted changes to the regulations under 14 CCR §§ 914.8 [934.8, 954.8], 916.9 [936.9, 956.9], 916.11 [936.11, 956.11], 923.3 [943.3, 963.3], and 923.9 [943.9, 963.9], which require a report, apply to business.

The changes to the regulations adopted under these sections are primarily intended to provide adequate information to the Director to ensure appropriate measures are being applied during timber harvesting operations to minimize impacts to listed anadromous salmonid species. The protection of listed species is necessary for the welfare of the citizens of the State. Although primarily intended for the protection of anadromous salmonid species, these same measures are also expected to protect other beneficial uses of water such as domestic use, agricultural use, and recreational use. The protection of the beneficial uses of water is also necessary for the welfare, and health of the citizens of the State. It has also been noted through public testimony that continued aggradation of watercourses could result in downstream flooding. It is anticipated that measures that would adequately protect anadromous salmonids would often reduce the potential for further aggradation of streams, and secondarily limit the risk of downstream flooding during peak flow events. Limiting the risk of flooding is necessary for the safety and health of the citizens of the State.

It should be noted that the Forest Practice Rules currently require that registered professional foresters who prepare timber harvesting plans have the responsibility to provide the Director with information about the plan and resource areas and the nature and purpose of the operations proposed which is sufficiently clear and detailed to permit the Director to exercise the discretion and make the determinations required by the Forest Practice Act and rules (ref. 14 CCR § 897(a)(B)(3)). The changes to the rules in the sections referenced above fall within the scope of responsibility currently required by the rules.

## **COMMENTS AND RESPONSE**

Comments and testimony on the proposed action and the Board of Forestry and Fire Protection's responses are presented in a separate section of the rulemaking file.

## **CONSIDERATION OF ALTERNATIVES**

Pursuant to Government Code section 11346.9(a)(5), the Board has determined that no alternative it considered would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The Board invited interested persons to submit alternatives to the proposed regulations at the scheduled hearings and during the written comment period. There was substantial public comment regarding this regulation modification. These comments are addressed elsewhere in the rulemaking package.

The Board has considered the following alternatives:

**1. Use the existing regulations without any change.**

This would maintain the status quo in regard to the protection for listed anadromous fish species. Timber operations and the THP process would continue under the existing regulations, which may not ensure the protection of anadromous salmonid populations. This would not address the concerns raised by other agencies and the public regarding the protection of watershed resources and listed aquatic species. The Board chose not to adopt this alternative.

**2. Adopt the regulations proposed considering the language under 14 CCR 898 Alternative 1, with consideration given to public and other agency comments.**

The language under Alternative 1 is intended to ensure that special recognition is given to those waterbodies listed pursuant to CWA Section 303(d). It is also intended to ensure that feasible measures are incorporated into a plan to reduce adverse impacts to these listed waterbodies to a level of insignificance. Furthermore, the Board recognized the need for the plan preparer to consider the specific water quality standards for listed waterbodies, and included an allowance for measures to help attain these standards. The Board determined that the language proposed was clear and met the intent of the proposed changes. Alternative 1 was determined to be the preferred alternative by the Board and was adopted.

**3. Adopt the regulations proposed considering the language under 14 CCR 898 Alternative 2, with consideration given to public and other agency comments.**

Under Alternative 2, the Board also recognized the need for the plan preparer to consider the specific water quality standards for listed waterbodies. However, the language under this alternative did not clearly indicate whether the Board required that plan preparer provide measures to help attain these standards or whether this was an option that could be exercised by the plan preparer. The Board determined that the language proposed under this alternative was not clear and could result in enforcement problems during plan review. Therefore, the Board did not adopt this alternative.

**3. Adopt the regulations proposed considering the language under 14 CCR 916(c) [936(c), 956(c)] Alternative 1, with consideration given to public and other agency comments.**

The language under Alternative 1 specified that protecting and restoring native aquatic and riparian-associated species, the beneficial functions of riparian zones and the quality and

beneficial uses of water would be the primary management objective within any prescribed WLPZ and within any ELZ or EEZ designated for watercourse or lake protection, or within any planning watershed with threatened or impaired values. The Board did not find that this proposed language clearly allowed for any timber harvesting within these planning watersheds even though they may be zoned by the counties as timberland production zones, where there is a presumption that timber harvesting is expected to and will occur. Therefore, the Board did not adopt this alternative (ref. 14 CCR § 897).

**4. Adopt the regulations proposed considering the language under 14 CCR 916(c) [936(c), 956(c)] Alternative 2, with consideration given to public and other agency comments.**

The language under Alternative 2 also recognized the importance of protecting and restoring native aquatic and riparian-associated species, the beneficial functions of riparian zones and the quality and beneficial uses of water. However, the language proposed under this subsection appeared to be more consistent with the intent of the Forest Practice Act (ref. PRC § 4513). The Board determined that the language proposed was clear and met the intent of the proposed changes. Alternative 2 was determined to be the preferred alternative by the Board and was adopted.

**5. Adopt the regulations proposed considering the language under 14 CCR 923.3 [943.3, 963.3] Alternative Language from the Technical Team, with consideration given to public and other agency comments.**

The Alternative Language from the Technical Team included specific prescriptive standards for the installation of culverts on Class I watercourses. The Board chose to adopt language from this alternative that is intended to address the same issues utilizing performance standards rather than prescriptive standards. The Board determined that the language adopted was clear and met the intent of the proposed changes. Therefore, this alternative was adopted as subsection (g).

**6. Adopt the regulations proposed considering the language under 14 CCR 916.9(I) [936.9(I), 956.9(I)] Alternative 1, with consideration given to public and other agency comments.**

The language under Alternative 1 prescribed a special management zone for inner gorge areas in both Class I and Class II watercourses. It additionally required review by a Certified Engineering Geologist for all operations on slopes over 65% within an inner gorge. However, the rules adopted by the board are primarily focused upon protection of Class I watercourses, which are watercourses where fish are always present or seasonally present. Therefore, the Board chose not to adopt this alternative, which included standards for operations within Class II as well as class I watercourses.

- 7. Adopt the regulations proposed considering the language under 14 CCR 916.9(l) [936.9(l), 956.9(l)] Alternative 2, with consideration given to public and other agency comments.**

The language under Alternative 2 also prescribed a special management zone for inner gorge areas in Class I watercourses, and required review by a Certified Engineering Geologist for all operations on slopes over 65% within an inner gorge. As the rules adopted by the board are primarily focused upon protection of Class I watercourses, which are watercourses where fish are always present or seasonally present, Alternative 2 was determined to be the preferred alternative by the Board and was adopted as subsection (k).

- 8. Adopt the regulations proposed considering the language under 14 CCR 916.9(m) [936.9(m), 956.9(m)] Alternative 1, with consideration given to public and other agency comments.**

The language under Alternative 1 prescribed special prescriptive standards for Class III watercourses. However, the rules adopted by the board are primarily focused upon protection of Class I watercourses, which are watercourses where fish are always present or seasonally present. Therefore, the Board chose not to adopt this alternative.

- 9. Adopt the regulations proposed considering the language under 14 CCR 916.9(m) [936.9(m), 956.9(m)] Alternative 2, with consideration given to public and other agency comments.**

Similar to Alternative 1, the language under Alternative 2 prescribed special prescriptive standards for Class III watercourses. However, the rules adopted by the board are primarily focused upon protection of Class I watercourses, which are watercourses where fish are always present or seasonally present. Therefore, the Board also chose not to adopt this alternative.

#### **SUMMARY OF LAWS RELATING TO THE REGULATION**

Public Resources Code (PRC) § 4551 authorizes the Board to adopt such rules and regulations as it determines are reasonably necessary to enable it to implement, interpret, or make specific sections 4513, 4514.3, 4551.5, 4551.7, 4552, 4553, 4562.5, 4562.7, 4562.9, 4582, 4582.6, 4582.7, and 4584 of the Public Resources Code. The Public Resources Code (PRC) section 4551 authorizes the Board to adopt rules and regulations for the continuous growing and harvesting of trees. The PRC § 4513 describes the intent of the legislature to restore, enhance and maintain the productivity of timberlands and while considering other values including but not limited to watershed and fisheries. The PRC § 4514.3 provides an exemption from the waste discharge requirements of the State Water Code for timber operations conducted under the Forest Practice Act. The PRC § 4551.5 specifies the items to which rules and regulations shall apply. The PRC § 4551.7 requires the Board to adopt regulations for site preparation activities that involve disturbance of soil. The PRC § 4552 indicates that the regulations adopted by the Board and the preparation of timber harvesting plans shall be based upon a study of factors

affecting the present and future condition of timberlands. The PRC § 4553 authorizes the Board to review and revise regulations. The PRC § 4562.5 requires the Board to adopt rule for the control of timber operations to ensure the protection of the beneficial uses of water. The PRC § 4562.7 is intended to ensure the protection of the beneficial uses of water. The PRC § 4562.9 required the Board to adopt regulations for the maintenance of drainage facilities and soil stabilization treatments on roads used for timber harvesting. The PRC § 4582 describes the contents of a timber harvesting plan. The PRC § 4582.6 specifies that the plan must be available for public and agency inspection. The PRC § 4582.7 sets the standards for public and agency review and comment. The PRC § 4584 allows the Board to establish exemptions from the Forest Practice Act for certain forest management activities.

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